

REMARKS

Previously claims 22-36 and 39-58 were pending and claims 37 and 38 were withdrawn. In the instant amendment, claims 37 and 38 have been canceled without prejudice as discussed below. Claims 39, 40, 41, and 54-57 have been amended. After entry of the instant amendment, claims 22-36 and 39-58 will be pending and under consideration.

I. AMENDMENT TO THE CLAIMS

Claims 37 and 38 have been canceled to conform to subject matter constructively elected for reasons stated in the Office Action mailed August 13, 2003, and are canceled without prejudice to Applicants' right to pursue constructively non-elected subject matter in one or more related applications including divisional, continuation, or continuation-in-part applications.

Claim 39 has been amended to recite, in relevant part, "a transgenic female ruminant." Support for the amendment to claim 39 is found in the specification, for example, on page 1, lines 23-24; page 2, lines 15-20; and page 26, line 10, to page 27, line 4.

Claim 40 has been amended to recite the full antecedent "transgenic female ruminant" of claim 39.

Claim 41 has been amended to a form not dependent upon claim 37.

Claims 54-57 have been amended to correct misspellings.

As the above amendments to claims are fully supported by the specification and claims as originally filed, entry thereof is respectfully requested. No new matter has been added. No amendment fee is believed to be due.

II. RESPONSE TO CLAIM OBJECTIONS

The Patent Office objects to claims 41-53 for depending from claim 37 that was withdrawn from consideration. Applicants respectfully submit that the instant amendment to claim 41 obviates the objection to claim 41, and to claims 42-53 that depend from claim 41. For these reasons, Applicants respectfully request that the objection to claims 41-53 be withdrawn.

II. REJECTION OF CLAIMS 39, 40 AND 42-55 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 39, 40 and 42-53 stand rejected under 35 U.S.C. § 112, first paragraph, allegedly for lack of written description. Although Applicants do not acquiesce in this rejection, Applicants have amended claims 39 and 40 to expedite prosecution, and respectfully submit that the rejections of claims 39, 40 and 42-53 are obviated.

The Patent Office states that “[a]s understood in the art, a transgenic animal comprises a transgene within its genome and the transgene is present in all somatic and germ cells of the animal” (page 4 of the Office Action, paper 32). As discussed in the specification, for example on page 26, lines 17-20, a founder transgenic animal may be chimeric in that the transgene does not have to be present in all somatic and germ cells. It is recognized as being transgenic due to the early developmental stage at which the transgene was introduced into the founder. To the extent that the founder transgenic animal has the transgene in its germ cells, it can be bred to form transgenic progeny, each of which would have a copy of the transgene in all somatic and germ cells.

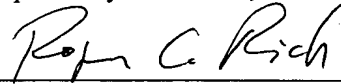
Applicants respectfully submit that newly amended claims 39 and 40, as well as claims 42-53 that depend from claim 40, have full written description support in the specification and claims as filed. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 39, 40 and 42-53.

CONCLUSION

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney if a telephone call could help resolve any remaining items.

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Respectfully submitted,



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